

79. 15.07.2025
Court No.551.

(Pritam)

WPA 12001 of 2022.

Shibu Mitra
-Vs.-
The State of West Bengal & Ors.

Mr. Ujjwal Ray,
Ms. Atreya Chakraborty.

.....for the petitioner.

Mr. Bipin Ghosh,
Mr. Jahar Datta.

.....for the State.

Mr. Sourav Mitra.
...for the Central School Service Commission.

Mr. Lalratan Mandal,
Mr. Prabal Sarkar.

...for the respondent no.8.

The petitioner is aggrieved by the arbitrariness on the part of the school in withholding the petitioner's application for transfer that had been made as far back as on August 28, 2021.

The petitioner is an assistant teacher in Chemistry at Debagram S.A. Vidyapith, (H.S.). The petitioner was recruited thereat on March 14, 2009 upon his name being recommended therefor by the West Bengal School Service Commission, South Eastern Region against a regular vacancy of assistant teacher in Chemistry in the said school. The petitioner has been serving in the said school since the date of the petitioner's appointment.

While in service on or about August 7, 2021, the petitioner made an application for transfer before the

respondent school authorities. Such application was returned to the petitioner on August 20, 2021 on the ground that the petitioner was a single teacher of Chemistry in the said school. Upon the petitioner's application for transfer being so returned to the petitioner, the petitioner applied again on August 28, 2021 for transfer. Such application for transfer has remained pending since then. Being aggrieved by such inaction on the part of the school authorities, the petitioner has approached this court by filing the instant writ petition.

Mr. Chakraborty, learned advocate appearing for the petitioner submits that since the application for transfer had been made by the petitioner on August 28, 2021 at a time when the West Bengal School Service Commission (General Transfer, Transfer on Special Grounds and Reallocation) Rules, 2015 did not contain any embargo on a single teacher in a given subject being transferred from one school to the other, therefore, the petitioner's application could neither have been returned at the first place nor could have been withheld by the school authorities on any such ground.

Mr. Chakraborty relies on a Single bench judgment of this court in the case of Satyajit Saha vs. State of West Bengal (WPA 16082 of 2021) and two judgments of the Hon'ble Division Bench of this court in the case of Pragya Sarki vs. State of West Bengal (MAT 04 of 2023) and

Prapti Chakraborty vs. State of West Bengal (MAT 205 of 2023) to buttress his contention that an application for transfer would have to be considered in the light of the rules prevailing at a time when the application was made. It is submitted that any amendment effected to any rule pertaining to transfer, subsequent to an application for transfer being made, cannot be retrospectively applied to such application for transfer.

Learned advocate appearing for the respondent school authorities has handed up a letter along with a staff pattern with effect from June 23, 2025 and submitted that there is only one teacher in the school for the relevant subject, i.e., Chemistry while there are 142 students in the Science stream for Classes XI-XII. Such report is taken on record.

Learned advocate appearing for the respondent State authorities has handed up the instructions forwarded to him by the District Inspector of Schools (SE), Nadia. The District Inspector of Schools has stated therein that it is not possible to consider the petitioner's case for transfer favourably in view of the Circular dated January 3, 2022. It also appears therefrom that the respondent school authorities have already forwarded the petitioner's application to the District Inspector of Schools. It also appears that the school authorities have written a letter dated October 17, 2022, thereby informing the District Inspector of Schools that the school could not

arrange any assistant teacher in Chemistry from the local or nearby schools.

Heard learned advocate appearing for the respective parties and considered the materials on record.

From the material on record, it is clear that during pendency of the present writ petition, the school authority has forwarded the petitioner's application to the District Inspector of Schools but the same is pending at the end of the District Inspector of Schools and has not yet reached the West Bengal School Service Commission.

It further appears from the communication dated October 17, 2022 that the District Inspector of Schools has instead of himself undertaking the exercise of arranging a substitute teacher for replacing the petitioner, at the school wherefrom the petitioner has sought to be transferred has passed on the burden to the school authorities and the school authorities have expressed their inability to find out a substitute teacher. Such an act on the part of the District Inspector of Schools cannot be appreciated.

The Hon'ble Division Bench of this court in the case of Piyali Goswami vs. State of West Bengal (MAT 64 of 2025) had in a similar fact situation, while taking note of another decision of an Hon'ble Division Bench of this court in MAT 1218 of 2024 observed that the notification dated January 3, 2022 passed on a statutory duty to the District Inspector of Schools of the district concerned to

make an alternative arrangement in a time-bound manner and that the said notification did not contemplate that unless a willing teacher volunteers to join the school even on temporary basis the application for transfer of an eligible teacher would not be allowed at all or that the same was dependent upon the willingness of a substitute teacher.

The Hon'ble Division Bench in the case of the Piyali Goswami (Supra) had directed the relevant District Inspector of Schools to act strictly in terms of the notification dated January 3, 2023 and take immediate steps for filling up the vacancy, if required by a fresh recruitment, positively within a period of four months from the date of the order passed by the Hon'ble Division Bench..

In the case at hand, the petitioner's application for transfer has already been forwarded by the school to the District Inspector Schools and the same is pending at the end of the District Inspector of Schools. Since the way forward in cases like that of the present have already been paved by the Hon'ble Division Bench in the case of Piyali Goswami (Supra) this court would respectfully follow suit.

The District Inspector of Schools is therefore directed to act in the light of the observations made by the Hon'ble Division Bench of this court in the case of Piyali Goswami (Supra) and take appropriate steps to

forward the petitioner's application to the West Bengal School Service Commission so that a decision can be taken thereon and the petitioner's transfer is effected, in case the petitioner is found otherwise eligible for the same.

Since more than four years have passed since the date of the petitioner making the application for transfer and since it is submitted by the petitioner that the vacancies in the school that had been indicated by the petitioner in the petitioner's application for transfer may not be in existence as at present, therefore, if the petitioner's application is forwarded to the West Bengal School Service Commission by the District Inspector of Schools in terms of the governing Transfer Rules of 2015 in the light of the judgment in the case of Piyali Goswami (Supra) and if the West Bengal School Service Commission finds that the petitioner is eligible for transfer then the said Commission shall provide an opportunity to the petitioner to change the names of the schools indicated in the application for transfer provided again that there is no vacancy available in the preferred school or schools which have been indicated in the petitioner's application for transfer.

WPA 12001 of 2022 stands disposed of with the aforesaid observations.

(Om Narayan Rai, J.)